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TAGS: [PREL](#) [PGOV](#) [HR](#) [TU](#) [ICTY](#) [EUN](#) [USEU](#) [BRUSSELS](#)

SUBJECT: EU WRESTLING WITH WHAT TO DO ABOUT CROATIA NOW

REF: A. STATE 254097

[1](#)B. THE HAGUE 3133

[1](#)C. VIENNA 4164

Classified By: Rick Holtzapple, PolOff, Reasons 1.4 (B/D)

SUMMARY

[1](#)1. (C) The discussions among EU Member States in the Council on Croatia have been tense, and the EU remains fairly evenly divided on how strictly to condition open accession negotiations with Croatia on improved cooperation with the ICTY. The Commission supports our position (REF A) and High Rep Solana has been delivering a firm message to the Croats, even if he is not taking any explicit position in the EU's internal debate. For now, the Dutch and the British are optimistic that the Presidency's proposed text will hold through next week. But Germany, at the level of Chancellor Schroeder, is pushing hard for a softer text. Both the Dutch and British reps in Brussels would like to reach consensus at 25 in COREPER on Dec. 8 on the Croatia text for the European Council Conclusions, to reduce the risk of trade-offs over Turkey or elsewhere in the end game closer to Dec. 17. Whatever we could do to persuade doubters (and stiffen supporters) that Croatia really can do more to meet its ICTY obligations on Gotovina would help. END SUMMARY.

[1](#)2. (C) The meetings of the EU's Balkans Working Group (COWEB) on Nov. 29 and Committee of Permanent Representatives (COREPER) on Dec. 1 established that the EU remains firmly split on what to decide about opening accession negotiations with Croatia in early 2005. The starting point of the debate has been the summit Conclusions language circulated by the Dutch on Nov. 29. Two phrases are at the core of the discussion: 1) "that the remaining indictee must be located and transferred to the Hague as soon as possible"; and 2) "opening the accession negotiations on (date) provided that full cooperation with ICTY has been confirmed by the Council."

[1](#)3. (C/NF) The UK has been leading the camp pushing for even tougher language, such as by dropping mention of a specific date. A UK contact (strictly protect) involved in the negotiations told us Dec. 3 that the UK position is a negotiating ploy, and London would be fully satisfied with the current proposed language, since it means accession talks would only open on that date after another Council decision -- by consensus. The UK does not, however, want the Dutch or others to know that. Joining the UK in support of a tough line has been the Netherlands; Denmark, Sweden, Finland and Lithuania ("all rock solid"); Poland ("so far"); and Belgium ("a bit wobbly"). The Czech Republic and Portugal have only been willing to say that ICTY conditionality is important, but have not taken a clear position on Conclusion language. Slovenia's position is currently unclear to the British or Dutch. In COWEB they supported the UK line, but the Brits now fear they may be willing to negotiate over ICTY language as they appear to be putting their highest priority on getting the Conclusions to include a reference to their bilateral border dispute with Croatia.

[1](#)4. (C) The Commission does not get a vote on the Council's decision, but sits in on all discussions. Mia Asenius, who handles Croatia for new Enlargement Commissioner Olli Rehn, told us that he is satisfied with giving a date provided that Croatia cooperates with ICTY. The Dutch proposal, she said, "could have been worse."

[1](#)5. (C) Another camp, led by Germany and Austria (despite the Austrians' REF C claim they would support language setting a date but making cooperation with ICTY a condition for starting the negotiations), has been pushing to weaken the Dutch proposal. They are joined in this effort by France, Italy, Spain, Ireland, Greece, Cyprus and Slovakia. Hungary has been unclear, but appears inclined to go along with Austria and Germany. Estonia and Latvia supported Germany at the Nov. 29 COWEB, and then were silent at the Dec. 1 COREPER.

[1](#)6. (C) Nonetheless, our contacts report that the current proposed language seems to be holding. Dutch PermRep De Bruijn, summarizing the COREPER discussion, was reported to have said that they heard arguments coming from both sides, and so were inclined to stick with their original language. A Dutch redraft of the entire Conclusions for the Dec. 17

summit is due to be circulated on Dec. 6, and expectations are the Croatia language will be unchanged (though our Dutch contact pointed out that the pen is being very closely held up in the Hague). COREPER will debate the Dec. 6 draft again on December 8. Both the UK and the Dutch would like to reach agreement on the Croatia text at that meeting, but are unsure of the chances.

17. (C/NF) The major risk, from both the Dutch and British perspective, is what kinds of deals, potentially involving Conclusion language on Turkey, might be made if the issue gets pushed higher than COREPER. And Berlin is reported to have already begun. Chancellor Schroeder has been arguing the German view with Chirac, and on Dec. 3 spoke with Belgian PM Verhofstadt, and is calling around to several other capitals. This German lobbying effort has left the UK worried that support from Belgium (despite a strong stand at the level of FM de Gucht) and Poland could go wobbly (our contacts even worry the UK might wobble if this language isn't locked in prior to the summit). The Vatican has reportedly also weighed in, with a series of demarches to EU Member States arguing that the EU should not hold an entire country hostage to the fate of one man.

18. (C) The Croatians, meanwhile, continue a furious round of diplomacy. FM Zuzul met with Solana on Dec. 3, looking "very nervous", according to an EU official. Zuzul argued the GoC's overall good record of cooperation with ICTY recently should not be ignored just because of the Gotovina case. Solana's response, we were told by his staff, was "you have a problem, you know the rules, you have a couple of weeks. We understand it may not be easy for you, but do your best to solve this."

COMMENT

19. (C) We do not expect the EU will solve this issue on December 8. If Schroeder is making calls, Berlin is unlikely to let the issue be resolved at PermRep-level. The German lobbying effort is particularly worrying, and is reportedly based largely on arguing the unreliability of Carla del Ponte. While we may share their doubts about del Ponte, Berlin is vulnerable in its arguments that the EU should disregard the judgment of a duly appointed, UN-authorized official under international law. Member States such as Greece, Spain, Italy or Austria, who have never been strong advocates of conditionality, are likely beyond reach. But we fear several other Member States just do not understand that between now and any date proposed for opening Croatia's negotiations (March 22 currently leads the betting) is the window of maximum leverage over the GoC. As such, they are susceptible to Croatian and German arguments that there is nothing more Zagreb could be doing to catch the man. Whatever we could do to persuade doubters such as Hungary, Slovakia, Estonia or Latvia (and stiffen supporters such as Poland, Belgium, Portugal or the Czech Republic) that Croatia really can do more to meet its obligations would help.

MCKINLEY